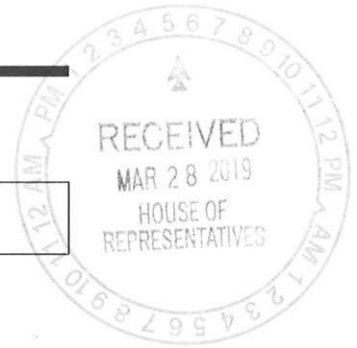


STATE OF MISSISSIPPI

Office of the Governor



March 28, 2019

TO THE MEMBERS OF THE HOUSE OF REPRESENTATIVES:

GOVERNOR'S SIGNING STATEMENT FOR HOUSE BILL 1205

I am signing House Bill 1205, "AN ACT TO PROVIDE THAT A PUBLIC AGENCY SHALL NOT REQUIRE ANY ENTITY ORGANIZED UNDER SECTION 501(C) OF THE INTERNAL REVENUE CODE TO PROVIDE THE PUBLIC AGENCY WITH PERSONAL INFORMATION; TO PROVIDE EXCEPTIONS TO THIS PROHIBITION; TO PROVIDE INJUNCTIVE RELIEF FOR VIOLATIONS OF THIS ACT; TO AMEND SECTION 25-61-3, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES."

House Bill 1205 prohibits public agencies from requesting or disclosing personal information regarding the identity of members, supporters, volunteers or donors to any nonprofit organization. Such personal information shall be exempt from disclosure under the Mississippi Public Records Act but may be subject to disclosure under limited circumstances pursuant to a court issued warrant or order.

Throughout my many years in public service, I have been both a zealous advocate for transparency in government and a staunch supporter of free speech rights. Transparency for government, however, does not equate to transparency for private citizens. In recent years, the threat of public disclosure of personal information of donors to nonprofit organizations has been used to attempt to silence free speech. House Bill 1205 protects the right of each Mississippian to support any charitable, religious, advocacy or community organization of their choice without fear that such support will be made public.

Contrary to some erroneous media reports, House Bill 1205 will not result in a flood of anonymous money into the coffers of candidates for public office. House Bill 1205 does not affect any provision of Mississippi's existing campaign finance laws, including the reporting obligations of candidates or political action committees with respect to campaign contributions.

House Bill 1205 does not change the information that must be provided by a nonprofit to the Mississippi Secretary of State as part of the registration process. Further, House Bill 1205 has no impact on the annual audit of nonprofit organizations conducted by the Mississippi Secretary of State.

I commend the Legislature for passing House Bill 1205 which protects the free speech rights of each and every Mississippian, and I enthusiastically sign this bill.

Respectfully submitted,

A handwritten signature in blue ink, reading "Phil Bryant", with a stylized, flowing script.

PHIL BRYANT
GOVERNOR

3/28/19

4:18 P.M.

Chapter No. 423
19/HR43/R1820SG
EW IKW

HOUSE BILL NO. 1205

Originated in House



Clerk

HOUSE BILL NO. 1205

AN ACT TO PROVIDE THAT A PUBLIC AGENCY SHALL NOT REQUIRE ANY ENTITY ORGANIZED UNDER SECTION 501(C) OF THE INTERNAL REVENUE CODE TO PROVIDE THE PUBLIC AGENCY WITH PERSONAL INFORMATION; TO PROVIDE EXCEPTIONS TO THIS PROHIBITION; TO PROVIDE INJUNCTIVE RELIEF FOR VIOLATIONS OF THIS ACT; TO AMEND SECTION 25-61-3, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. As used in this act, the following words and phrases shall have the meanings as defined in this section unless the context clearly indicates otherwise:

(a) "Personal information" means any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter or volunteer of, or donor of financial or nonfinancial support to, any entity organized under Section 501(c) of the Internal Revenue Code. Personal information does not include information reportable to the Secretary of State pursuant to Section 79-11-503(1) (b).

(b) "Public agency" means any state or local governmental unit, however designated, including, but not limited to, this state; any department, agency, office, commission, board, division or other entity of this state; any political subdivision of this state, including, but not limited to, a county, city, township, village, school district, community college district or any other local governmental unit, agency, authority, council, board or commission; or any state or local court, tribunal or other judicial or quasi-judicial body.

SECTION 2. (1) Notwithstanding any law to the contrary, and subject to subsection (3), a public agency shall not do any of the following:

(a) Require any entity organized under Section 501(c) of the Internal Revenue Code to provide the public agency with personal information.

(b) If in the possession of personal information, a public agency shall not release, publicize or otherwise disclose that personal information without the express written permission of every identified member, supporter, volunteer or donor of the Section 501(c) entity as well as the Section 501(c) entity that received their membership, support, volunteer time or donations.

(c) Request or require a current or prospective contractor with the public agency to provide the public agency with a list of entities organized under Section 501(c) of the

Internal Revenue Code to which it has provided financial or nonfinancial support.

(2) Personal information shall be exempt from disclosure under the Mississippi Public Records Act.

(3) This act does not preclude either of the following:

(a) Any lawful warrant for personal information issued by a court of competent jurisdiction; or

(b) A lawful request for discovery of personal information in litigation if both of the following conditions are met:

(i) The requestor demonstrates a compelling need for the personal information by clear and convincing evidence; and

(ii) The requestor obtains a protective order barring disclosure of personal information to any person not directly involved in the litigation. As used in this subparagraph, "person" means an individual, partnership, corporation, association, governmental entity or other legal entity.

SECTION 3. (1) A person alleging a violation of this act may bring a civil action for appropriate injunctive relief.

(2) A court, in rendering a judgment in an action brought under this section, shall award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, to the complainant in the action if the court determines that the award is appropriate.

SECTION 4. A person who knowingly violates this act is guilty of a misdemeanor punishable by imprisonment of not more than ninety (90) days or a fine of not more than One Thousand Dollars (\$1,000.00) or both.

SECTION 5. The requirements of this act shall not affect any provisions of the Mississippi Campaign Finance statutes provided in Sections 23-15-801 et seq.

SECTION 6. Section 25-61-3, Mississippi Code of 1972, is amended as follows:

25-61-3. The following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Public body" shall mean any department, bureau, division, council, commission, committee, subcommittee, board, agency and any other entity of the state or a political subdivision thereof, and any municipal corporation and any other entity created by the Constitution or by law, executive order, ordinance or resolution. The term "public body" includes the governing board of a charter school authorized by the Mississippi Charter School Authorizer Board. Within the meaning of this chapter, the term "entity" shall not be construed to include individuals employed by a public body or any appointed or elected public official.

(b) "Public records" shall mean all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary

materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body. "Public records" shall not mean "personal information" as defined in Section 1 of this act.

(c) "Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications and computer networking programs.

(d) "Proprietary software" means data processing software that is obtained under a licensing agreement and is protected by copyright or trade secret laws.

(e) "Incident report" means a narrative description, if such narrative description exists and if such narrative description does not contain investigative information, of an alleged offense, and at a minimum shall include the name and identification of each person charged with and arrested for the alleged offense, the time, date and location of the alleged offense, and the property involved, to the extent this information is known.

(f) "Investigative report" means records of a law enforcement agency containing information beyond the scope of the matters contained in an incident report, and generally will include, but not be limited to, the following matters if beyond the scope of the matters contained in an incident report:

(i) Records that are compiled in the process of detecting and investigating any unlawful activity or alleged unlawful activity, the disclosure of which would harm the investigation which may include crime scene reports and demonstrative evidence;

(ii) Records that would reveal the identity of informants and/or witnesses;

(iii) Records that would prematurely release information that would impede the public body's enforcement, investigative or detection efforts;

(iv) Records that would disclose investigatory techniques and/or results of investigative techniques;

(v) Records that would deprive a person of a right to a fair trial or an impartial adjudication;

(vi) Records that would endanger the life or safety of a public official or law enforcement personnel, or confidential informants or witnesses;

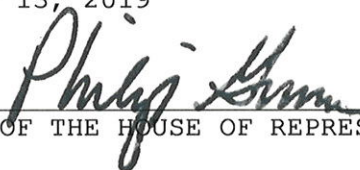
(vii) Records pertaining to quality control or PEER review activities; or

(viii) Records that would impede or jeopardize a prosecutor's ability to prosecute the alleged offense.

(g) "Law enforcement agency" means a public body that performs as one (1) of its principal functions activities pertaining to the enforcement of criminal laws, the apprehension and investigation of criminal offenders, or the investigation of criminal activities.

SECTION 7. This act shall take effect and be in force from and after July 1, 2019.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 13, 2019


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 13, 2019


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

March 28, 2019

4:18pm